

PUBLIC CHAPTER NO. 1107**SENATE BILL NO. 4175****By Kyle, Tate, Ford, Burks****Substituted for: House Bill No. 4153****By Ferguson, Odom**

AN ACT to amend Tennessee Code Annotated, Title 47, Chapter 18, relative to consumer protection.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, Part 3, is amended by adding the following language as a new, appropriately designated section:

(a) In order to provide a degree of protection to members of health clubs, each health club shall post a bond of twenty-five thousand dollars (\$25,000) with the Department of Commerce and Insurance for each location conducting business in this state. Such bond may be made through deposit of cash, a certificate of deposit, securities, or with a bond issued by a corporate surety acceptable to the commissioner.

(b) The bond shall be maintained for two (2) years following the date on which the health club location ceases to conduct business in this state.

(c) In an action brought by the attorney general and reporter pursuant to Part 1 of this chapter, the attorney general and reporter shall have the right to request that the total amount of the bond posted by the health club be awarded to the state for consumer restitution.

(d) This section shall not apply to any health club or health club operator that has, for at least seven (7) consecutive years, operated under substantially the same ownership and control and maintained a satisfactory registration with the division.

(e)(1) In lieu of the surety bond required in this section, a health club may file with the Department of Commerce and Insurance a current audited financial statement prepared by a certified public accountant licensed in this state that demonstrates to the department that either the health club or its operator has a financial net worth of at least ten million dollars (\$10,000,000) available to satisfy any claims imposed by the division.

(2) Any health club that files an audited financial statement in lieu of posting the surety bond required by this section shall annually file an updated audited financial statement that complies with the provisions of subdivision (1). Within thirty (30) calendar days of receiving information

that would render the health club ineligible for exemption from the surety bond requirement under this subsection, either the health club or its operator must notify the division of the change in its financial status and post the required surety bond with the department.

(f) Any health club subject to this section and registered with the division on the effective date of this act shall post a surety bond or file an audited financial statement on or before January 1, 2009.

SECTION 2. Tennessee Code Annotated, Title 47, Chapter 18, Part 3, shall be amended by adding the following language as a new, appropriately designated section:

Cease and desist orders. -

Notwithstanding any other provision to the contrary in this chapter, whenever it appears to the commissioner that a person has violated or is violating this part, the rules promulgated thereunder, or an order of the commissioner, the commissioner may issue an order to such person to cease and desist in such violations, without prior notice. The recipient of the order shall be afforded an opportunity for a hearing within thirty (30) business days to show cause why such order should be lifted, rescinded, or modified.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 15, 2008



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 5th day of June 2008



PHIL BREDESEN, GOVERNOR